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10/808,963	03/25/2004	Narutoshi Fukuzawa	890050.475	6330
500 7590 12/12/2007 SEED INTELLECTUAL PROPERTY LAW GROUP PLLC 701 FIFTH AVE			EXAMINER	
			SHEN, KEZHEN	
SUITE 5400 SEATTLE, WA	A 98104		ART UNIT PAPER NUMBER	
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			12/12/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary		Application No.	Applicant(s)			
		10/808,963	FUKUZAWA ET AL.			
		Examiner	Art Unit			
		Kezhen Shen	2627 .			
Period fo	The MAILING DATE of this communication app or Reply	ears on the cover sheet with the o	correspondence address			
WHIC - Exte after - If NC - Failu Any	ORTENED STATUTORY PERIOD FOR REPLY CHEVER IS LONGER, FROM THE MAILING DANSIONS of time may be available under the provisions of 37 CFR 1.13 SIX (6) MONTHS from the mailing date of this communication. O period for reply is specified above, the maximum statutory period we use to reply within the set or extended period for reply will, by statute, reply received by the Office later than three months after the mailing ed patent term adjustment. See 37 CFR 1.704(b).	ATE OF THIS COMMUNICATION 36(a). In no event, however, may a reply be ting will apply and will expire SIX (6) MONTHS from cause the application to become ABANDONE	N. mely filed the mailing date of this communication. ED (35 U.S.C. § 133).			
Status						
1) ズ	Responsive to communication(s) filed on 9/11/2	2007				
2a) □	This action is FINAL . 2b)⊠ This action is non-final.					
3)	<u>-</u> ,					
٠,١	closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.					
Disposit	ion of Claims	•				
4)⊠	4)⊠ Claim(s) <u>1-25</u> is/are pending in the application.					
٠,٢	4a) Of the above claim(s) is/are withdrawn from consideration.					
5)	•					
·	Claim(s) <u>1-25</u> is/are rejected.					
7)	Claim(s) is/are objected to.					
	Claim(s) are subject to restriction and/or	election requirement.				
-	ion Papers					
_		_				
9) The specification is objected to by the Examiner.						
10) The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner.						
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).						
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d). 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.						
11)[_]	The ball of declaration is objected to by the Ex	aminer. Note the attached Office	e Action or form P1O-152.			
Priority ι	ınder 35 U.S.C. § 119					
12)⊠ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a)⊠ All b)□ Some * c)□ None of:						
	1. Certified copies of the priority documents have been received.					
	2. Certified copies of the priority documents have been received in Application No					
	3. Copies of the certified copies of the priority documents have been received in this National Stage					
	application from the International Bureau (PCT Rule 17.2(a)).					
* See the attached detailed Office action for a list of the certified copies not received.						
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Attachmen	t(s)					
	e of References Cited (PTO-892)	4) Interview Summary				
	e of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Da 5) Notice of Informal P				
	nation Disclosure Statement(s) (PTO/SB/08) r No(s)/Mail Date	6) Other:	aton Application			

DETAILED ACTION

Response to Arguments

1. Applicant's arguments see Applicant Arguments/Remarks, filed 09/11/2007, with respect to the rejection of claims 1, 4-5, 8-10 and 15-13 over Aratani et al. 6,063,468 in view of Zhou et al. US 2004/0157159 A1. have been fully considered and are partial persuasive. Therefore, the rejection has been withdrawn for only the persuasive arguments. However, upon further consideration, a new grounds of rejection is made in view of over Aratani et al. 6,063,468 in view of Kubota et al. 5,698,284.

The following arguments are non-persuasive for the following reasons:

The hardness based Vickers hardness test argument is non-persuasive to the Examiner. It is true the Vickers hardness test is one way to test for hardness in the material and Uchiyama et al. does not disclose this, however the focus of the claim is the hardness of the layer and not how the hardness for the layer was tested. As applicant agreed the Vickers hardness test is only used to determine the hardness of the optical disc and not critical in the making of the disc. The following citation is from MPEP § 2112.01 The patentability of a product does not depend on its method of production. If the product in the product-by-process claim is the same as or obvious from a product of the prior art, the claim is unpatentable even though the prior product was made by a different process." In re Thorpe, 777 F.2d 695, 698, 227 USPQ 964, 966 (Fed. Cir. 1985)

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The load of 200 mgf argument is also non-persuasive to the Examiner. When using the Vickers hardness test the load is not critical in the determination of the hardness. Taken from the Wikipedia Vickers hardness test article. "It is based on the principle that impressions made by this indenter are geometrically similar regardless of load."

DETAILED ACTION

Claim Rejections - 35 USC § 103

- 1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:
 - (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.
- 2. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Aratani et al. 6,063,468 in view of Kubota et al. 5,698,284.

Regarding claim 1, Uchiyama et al. teaches an optical recording medium comprising a support substrate (16 of Fig. 1 [0004]), a light transmission layer (11 of Fig. 1 [0004]) formed on a side of a light incidence plane through which a laser beam is projected (Fig. 1 the light waves 18 hit the light transmission layer first) and which comprises at least one light transmission film and a recording layer (15 of Fig.1 [0004]) located between the support substrate and the light transmission layer, the at least one light transmission film having Vickers hardness of 30 mgf/.mu.m.sup.2 to 50 mgf/.mu.m.sup.2 with respect

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to a load of 200 mgf (Uchiyama et al. [0124] a range of 20 kg/mm² or greater is disclosed the notation used in Uchiyama et al is kg/mm² whereas the present application uses mgf/µm². However, the conversion of 20 kg/mm² is equal to 20 mgf/µm². Thus, in Uchiyama et al., the range of 20 kg/mm² or greater would have encompassed the recited range of 30 mgf/µm² to 50 mgf/µm² as claimed).

Uchiyama et al. fail to teach the recording layer containing an organic dye as a primary component. However, Kubota et al. make obvious of such component (Kubota et al. Col 1 Lines 37-45). Therefore, taking the teaching of Kubota et al. and Uchiyama et al. as a whole, it would have been obvious to use an organic dye as a primary component for the recording layer as taught in Kubota et al. for the benefits of writing data to the disc (Kubota et al Col 1 Lines 36-38 DRAW type recording system is a write once read many system).

3. Claims 4-5, 8-10 and 12-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Uchiyama et al in view of Kubota et al. as applied to claims 1 above respectively and further in view of Aratani et al. 6,063,468.

Regarding claim 4, the combination of Uchiyama et al. and Kubota et al. fail to teach an optical recording medium in accordance with claim 1, wherein the at least one light transmission film is formed so as to have a thickness of 0.5 µm to 100 µm. However, Aratani et al does (Aratani et al. Col 12 Line 3-4 first layer having a thickness from 0.1 to 10 µm). Therefore, one of ordinary skill in the art is motivated to combine the

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teachings of Uchiyama et al. and Kubota et al. with Aratani et al. to form the light transmission thickness to be of 0.5 µm to 100 µm for the benefit of even thickness of the resin (Aratani et al. Col 12 Lines 4-5).

Regarding claim 5, the combination of Uchiyama et al. and Kubota et al. fail to further teach an optical recording medium in accordance with claim 1, wherein the second light transmission film located on the side of the light incidence plane through which a laser beam enters. However, Aratani et al does (Aratani et al. 414 of Fig. 4). Therefore, one of ordinary in the art is motivated to combine the teachings of Uchiyama et al. and Kubota et al. with Aratani et al. for form a second light transmission film located on the side of the light incidence plane through which the laser beam enters for the benefit of use of a harder material for the surface layer while a softer material, which may have more beneficial optical qualities for the second layer (Aratani et al. Col 6 Lines 50-55). For the rest of the claim, see the rejection as stated in claim 1.

Regarding claim 8, the combination of Uchiyama et al. and Kubota et al. fail to teach an optical recording medium in accordance with claim 5, wherein the first light transmission film so as to have a thickness of 0.5 µm to 100 µm. However, Aratani et al does (Aratani et al. Col 12 Line 3-4 thickness from 0.1 to 10 µm). Therefore, one of ordinary skill in the art is motivated to combine the teachings Uchiyama et al. and Kubota et al. with Aratani et al. to form the light transmission thickness to be of 0.1 µm to 10 µm for the benefit of even thickness of the resin.

Regarding claim 9, the combination of Uchiyama et al. and Kubota et al. teaches an optical recording medium in accordance with claim 5, but fails to teach wherein the second light transmission film has hardness lower than that of the first light transmission film. However Aratani et al does (Aratani et al. Col 6 Line 48-57 the provision of light transmissive layer formed of two layers of different materials allows for the use of a harder material for surface layer while a softer material, may be used to form the second or internal layer). Therefore, one of ordinary skill in the art is motivated to combine the teachings of Uchiyama et al. and Kubota et al. with Aratani et al. for a first and second light transmission film with different hardness for the benefit of use of a harder material for the surface layer while a softer material, which may have more beneficial optical qualities for the second layer (Aratani et al. Col 6 Lines 50-55). Also while the different hardness is not explicitly stated, Official Notice is taken that it is a basic scientific principle to have one light transmission film harder than the other for structural strength and one light transmission film for better optical qualities to combine without a specific benefit for the specific hardness for each of the light transmission film.

Regarding claim 10, the combination of Uchiyama et al. and Kubota et al. fail to teach an optical recording medium in accordance with claim 5, wherein each of the first light transmission film and the second light transmission film is formed by applying a resin solution using a spin coating process. However, Aratani et al. does (Aratani et al. Col 12 Line 41-45 light transmissive layer may be applied by spin coat). Therefore, one

of ordinary skill in the art is motivated to combine the teachings of Uchiyama et al. and Kubota et al. with Aratani et al. for the use of a spin coat process to apply a resin solution for the benefit of creating layers of thin resin.

Regarding claim 12, the combination of Uchiyama et al. and Kubota et al. fail to teach an optical recording medium in accordance with claim 1, wherein the thickness of the light transmission layer is equal to or thicker than 10 µm and equal to or thinner than 300 µm. However, Aratani et al. does (Aratani et al. Col 6 Line 15-19 light transmissive layer should be provided with a thickness of approximately 150 µm or less). Therefore, one of ordinary skill in the art is motivated to combine the teachings of Uchiyama et al. and Kubota et al. with Aratani et al. for the purpose of having a thickness of the light transmission layer is equal to or thicker than 10 µm and equal to or thinner than 300 µm for the benefit of increase in the numerical aperture of the objective lens of the optical pickup.

Regarding claim 13, the combination of Uchiyama et al. and Kubota et al. fail to teach an optical recording medium in accordance with claim 5, wherein the thickness of the light transmission layer is equal to or thicker than 10 µm and equal to or thinner than 300 µm. However, Aratani et al. does (Aratani et al. Col 6 Line 15-19 light transmissive layer should be provided with a thickness of approximately 150 µm or less). Therefore, one of ordinary skill in the art is motivated to combine the teachings of Uchiyama et al. and Kubota et al. with Aratani et al. for the purpose of having a thickness of the light

transmission layer is equal to or thicker than 10 μ m and equal to or thinner than 300 μ m for the benefit of increase in the numerical aperture of the objective lens of the optical pickup.

4. Claims (14, 16, 18) and (11, 15, 17, 19) are rejected under 35 U.S.C. 103(a) as being unpatentable over Uchiyama et al in view of Kubota et al. and further in view of Aratani et al as applied to claim 5 above respectively and further in view of Zhou et al. US 2004/0157159 A1.

Regarding claim 11, the combination of Aratani et al., Kubota et al. and Uchiyama teaches an optical recording medium in accordance with claim 5, but fails to teach wherein the first light transmission film is constituted as an adhesive layer formed of a light transmittable adhesive agent layer and the second light transmission film is formed by adhering a light transmittable sheet onto the adhesive layer. However, Zhou et al. does. Zhou et al. disclose applying the light transmission layer (Zhou et al. 9 of Fig. 1, [0048] protective layer) to another layer (Zhou et al. 8 of Fig. 1, [0048] ITO layer) by means of an adhesive layer (Zhou et al. 9 and 8 Fig. 1 [0048] the protective layer may also be provided by applying a sheet of polycarbonate by means of a Pressure Sensitive Adhesive layer to the ITO layer).

Taking the combined teaching of Kubota et al., Uchiyama and Zhou et al as a whole, one skilled in the art would have been motivated to use the application of the Pressure Sensitive Adhesive layer on both the protective layer and the ITO layer and

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apply to the same principle to the two light transmission film for the benefit of a compound of keeping the two film firmly together.

Regarding claim 14 the combination of Uchiyama et al., Kubota et al. and Aratani et al. teaches an optical recording medium in accordance with claim 1, but fails to further teach a reflective layer between the support substrate and the recording layer. However, Zhou et al. does. Zhou et al. teach an optical recording medium which further comprises a reflective layer between the support substrate and the recording layer (Zhou et al. 3 and 6 of Fig. 1, [0046] recording layer and the metal reflective layer).

Therefore, taking the combined teaching of Kubota et al., Uchiyama and Zhou as a whole, one of ordinary skill in the art would have been motivated to place the reflective layer between the support substrate and the recording layer for the benefit of reflecting the light beam and also to radiate the heat generated by the beam.

Regarding claim 15, the combination of Uchiyama et al., Kubota et al. and Aratani et al. teaches an optical recording medium in accordance with claim 5, but fails to further teach a reflective layer between the support substrate and the recording layer. However, Zhou et al. does. Zhou et al. teach an optical recording medium which further comprises a reflective layer between the support substrate and the recording layer (Zhou et al. 3 and 6 of Fig. 1, [0046] recording layer and the metal reflective layer).

Therefore, taking the combined teaching of Kubota et al., Uchiyama and Zhou as a whole, one of ordinary skill in the art would have been motivated to place the reflective

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layer between the support substrate and the recording layer for the benefit of reflecting the light beam and also to radiate the heat generated by the beam.

Regarding claim 16, the combination of Uchiyama et al. and Kubota et al. teaches an optical recording medium in accordance with claim 1, but fails to further teaches a cap layer between the light transmission layer and the recording layer. However, Zhou et al. does. Zhou et al. discloses a dielectric layer between the light transmission layer and the recording layer (Zhou et al. 7 of Fig. 2, [0049] dielectric layer is present in the recording stack in contact with the recording layer).

Therefore, taking the combined teaching of Kubota et al, Uchiyama and Zhou as a whole, one of ordinary skill in the art would have been motivated to place a cap layer between the light transmission layer and the recording layer for the benefit of separating the two layers from interfering from one another.

Regarding claim 17, the combination of Uchiyama et al., Kubota et al. and Aratani et al. teaches an optical recording medium in accordance with claim 5, but fails to further teach a cap layer between the light transmission layer and the recording layer. However, Zhou et al. does. Zhou et al. discloses a dielectric layer between the light transmission layer and the recording layer (Zhou et al. 7 of Fig. 2, [0049] dielectric layer is present in the recording stack in contact with the recording layer).

Therefore, taking the combined teaching of Aratani, Uchiyama, Kubota and Zhou as a whole, one of ordinary skill in the art would have been motivated to place a cap

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layer between the light transmission layer and the recording layer for the benefit of separating the two layers from interfering from one another.

Regarding claim 18, the combination of Uchiyama et al., Kubota et al. and Aratani et al. teaches an optical recording medium in accordance with claim 1, but fails to teach the cap layer is formed of a dielectric material so as to have thickness of 10 nm to 150 nm. However, Zhou et al. does. Zhou et al. discloses an optical recording medium wherein the cap layer is formed of a dielectric material (Zhou et al. 5 and 7 of Fig. 6, [0053] dielectric layers comprise (ZnS)₈₀(SiO2)₂₀)so as to have thickness of 10 nm to 150 nm (Zhou et al. 7 of Fig. 6 [0053] dielectric layer has a thickness of 130 nm).

Therefore, taking the combined teaching of Aratani, Uchiyama, Kubota and Zhou as a whole, one of ordinary skill in the art would have been motivated to create a dielectric layer with a thickness of 130 nm for the benefit of preventing thermal damage to the recording layer.

Regarding claim 19, the combination of Uchiyama et al., Kubota et al. and Aratani et al. teaches an optical recording medium in accordance with claim 5, but fails to further teach the cap layer is formed of a dielectric material so as to have thickness of 10 nm to 150 nm. However, Zhou et al. does. Zhou et al. discloses an optical recording medium wherein the cap layer is formed of a dielectric material (Zhou et al. 5 and 7 of Fig. 6, [0053] dielectric layers comprise (ZnS)₈₀(SiO2)₂₀)so as to have thickness of 10 nm to 150 nm (Zhou et al. 7 of Fig. 6 [0053] dielectric layer has a thickness of 130 nm).

Therefore, taking the combined teaching of Aratani, Kubota, Uchiyama and Zhou as a whole, one of ordinary skill in the art would have been motivated to create a dielectric layer with a thickness of 130 nm for the benefit of preventing thermal damage to the recording layer.

5. Claims (20, 22, 24) and (21, 23, 25) are rejected under 35 U.S.C. 103(a) as being unpatentable over Uchiyama et al in view of Kubota et al. and further in view of Aratani et al as applied to claim 5 above respectively, and further in view of Saito US 2003/0138728 A1.

Regarding claim 20, the combination of Uchiyama et al., Kubota et al. teaches an optical recording medium in accordance with claim 1, but fails to further teach the cap layer is formed of metal so as to have thickness of 10 nm to 20 nm. However, Saito does. Satio discloses an optical recording wherein the cap layer is formed of metal (Satio [0067] the substance of the reflective layer is made of metals such as Ag, Au, In, Si, Ge, Te, Pb, Sn, metalloids and stainless steel) so as to have thickness of 10 nm to 20 nm (Satio [0067] the thickness of the reflective layer is generally 10 to 300 nm). While the applicant does not treat the cap layer as a reflective layer, the purpose of the layer is similar in principle. A small thin metal layer used to separate the light transmission layer (Satio [0068] protective layer) and the recording layer (Satio [0068] recording layer).

Therefore, taking the combined teaching of Kubota, Uchiyama and Saito as a whole, one of ordinary skill in the art would have been motivated to combine the optical medium from the combined teaching of Kubota and Uchiyama and the cap layer from the teachings of Satio for the benefit of separating the two layers from mixing or interfering with one another.

Regarding claim 21, the combination of Uchiyama et al., Kubota et al. and Aratani et al. teaches an optical recording medium in accordance with claim 5, but fails to teach wherein the cap layer is formed of metal so as to have thickness of 10 nm to 20 nm. However, Saito does. Satio discloses an optical recording wherein the cap layer is formed of metal (Satio [0067] the substance of the reflective layer is made of metals such as Ag, Au, In, Si, Ge, Te, Pb, Sn, metalloids and stainless steel) so as to have thickness of 10 nm to 20 nm (Satio [0067] the thickness of the reflective layer is generally 10 to 300 nm).

While the applicant does not treat the cap layer as a reflective layer, the purpose of the layer is similar in principle. A small thin metal layer used to separate the light transmission layer (Satio [0068] protective layer) and the recording layer (Satio [0068] recording layer).

Therefore, taking the combined teaching of Kubota, Aratani, Uchiyama and Saito as a whole, one of ordinary skill in the art would have been motivated to combine the optical medium from the combined teaching of Kubota et al and Uchiyama and the cap

layer from the teachings of Satio for the benefit of separating the two layers from mixing or interfering with one another.

Regarding claim 22, the combination of Uchiyama et al., Kubota et al. teaches an optical recording medium in accordance with claim 1, but fails to teach wherein an organic dye contained in the recording layer as a primary component has a refractive index lower than 1.2 or higher than 1.9 with respect to a laser beam having a wavelength of 370 nm to 425 nm and an extinction coefficient equal to or higher than 0.1 and equal to or lower than 1.0 with respect to a laser beam having a wavelength of 370 nm to 425 nm. However, Saito does. Saito teaches an optical recording medium wherein an organic dye contained in the recording layer ([0006] a recording layer comprising a dye) as a primary component has a refractive index lower than 1.2 or higher than 1.9 ([0042] the refractive index (n) respectively in a range of 1.0<n<1.9) with respect to a laser beam having a wavelength of 370 nm to 425 nm ([0015] a laser having a wavelength no greater than 450 nm) and an extinction coefficient equal to or higher than 0.1 and equal to or lower than 1.0 ([0042] the extinction coefficient (k) respectively in a range of 0.03<k<0.3) with respect to a laser beam having a wavelength of 370 nm to 425 nm ([0015] a laser having a wavelength no greater than 450 nm). Therefore, taking the combined teaching of Kubota, Uchiyama and Saito as a whole, one of ordinary skill in the art would have been motivated to use an organic dye in accordance to the specifications as claimed because organic dye optical medium is notoriously well known in the art for the benefit of writing data once to the recording

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medium and reading it multiple times. Some examples of such organic dye recording media are CD-R and DVD-R. Official Notice is taken.

Regarding claim 23, the limitations as claimed have been analyzed and rejected with respect to claim 22 above.

Regarding claim 24, the combination of Uchiyama et al., Kubota et al. teaches an optical recording medium in accordance with claim 1, but fails to teach wherein the recording layer contains a porphyrin system dye, a mono-methine cyanine system dye or a tri-methine cyanine system dye as a primary component. However Saito does. Saito teaches an optical recording medium wherein the recording layer contains a porphyrin system dye or a tri-methine cyanine system dye as a primary component ([0006] recording layer comprising a dye such as a prophyrin compound, a trimethynecyanine dye).

Therefore, taking the combined teaching of Kubota, Uchiyama and Saito as a whole, one of ordinary skill in the art would have been motivated to utilized the specific types of dye as a primary component in the optical medium as claimed for the benefit of writing data once to the recording medium and reading it multiple times. Some examples include CD-R and DVD-R.

Regarding claim 25, the limitations as claimed have been analyzed and rejected with respect to claim 24 above.

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Conclusion

The referenced citations made in the rejection(s) above are intended to exemplify areas in the prior art document(s) in which the examiner believed are the most relevant to the claimed subject matter. However, it is incumbent upon the applicant to analyze the prior art document(s) in its/their entirety since other areas of the document(s) may be relied upon at a later time to substantiate examiner's rationale of record. A prior art reference must be considered in its entirety, i.e., as a whole, including portions that would lead away from the claimed invention. W.L. Gore & associates, Inc. v. Garlock, Inc., 721 F.2d 1540, 220 USPQ 303 (Fed. Cir. 1983), cert. denied, 469 U.S. 851 (1984). However, "the prior art's mere disclosure of more than one alternative does not constitute a teaching away from any of these alternatives because such disclosure does not criticize, discredit, or otherwise discourage the solution claimed...." In re Fulton, 391 F.3d 1195, 1201, 73 USPQ2d 1141, 1146 (Fed. Cir. 2004).

Contact

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kezhen Shen whose telephone number is (571) 270-1815. The examiner can normally be reached on Monday - Friday 9:30 am to 5:30 pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor. Dwayne Bost can be reached on (571) 272-7023. The fax phone

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number for the organization where this application or proceeding is assigned is 571-273-8300.

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/Kezhen Shen/

SUPERVISORY PATENT EXAMINER